

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Hearing Date: June 10, 2003

Subject Matter of Proposed Regulations: Definitions; Hand Therapy; Physical Agent Modalities; Swallowing Assessment, Evaluation, or Intervention; Post Professional Education and Training; and Advanced Practice Certification.

Sections Affected: Title 16, Division 39, California Code of Regulations, Sections 4150, 4151, 4152, 4153, 4154, and 4155.

SPECIFIC PURPOSE OF EACH ADOPTION:

On January 1, 2003, Senate Bill 1402 (SB 1402) (Murray, Chapter 823, Statutes of 2002) took effect identifying hand therapy, the use of physical agent modalities, and swallowing assessment, evaluation or intervention as areas of advanced practice that require post professional education and training before an occupational therapist can provide such services. The proposed regulatory actions are needed to implement, interpret, and make specific this legislation.

Section 4150: Existing statutes identify three areas of advanced practice that require education and training beyond that which was required in the qualifying degree program and use several terms that should be defined for clarity purposes. This proposed regulation would define the acronym "ACOTE", "Post professional education and training", "Contact hour", "Semester hour", "Quarter unit", "Rehabilitation of the hand, wrist, and forearm", "Swallowing", and "Instrumental evaluations."

Section 4151: Existing law identifies hand therapy as an area of advanced practice that requires post professional education and training in anatomy of the upper extremity and how it is altered by pathology; histology as it relates to tissue healing and the effects of immobilization and mobilization on connective tissue; muscle, sensory, vascular, and connective tissue physiology; kinesiology of the upper extremity, such as bio-mechanical principles of pulleys, intrinsic and extrinsic muscle function, internal forces of muscles, and the effects of external forces; the effective of temperature and electrical currents on nerve and connective tissue; and surgical procedures of the upper extremity and their postoperative course. Existing law also provides that an occupational therapist completing the education and training requirements for hand therapy could offer such services under the supervision of an occupational therapist who had already completed the education and training requirements, a physical therapist, or a physician/surgeon.

This proposed regulation would require an occupational therapist offering hand therapy services to complete 45 contact hours of coursework and 480 hours of supervised training in these subject areas. It would also require an occupational therapist using

physical agent modalities in conjunction with hand therapy to meet the requirements for the use of physical agent modalities and specify that an occupational therapist could provide only the hand therapy services he or she was competent to perform.

Section 4152: Existing law identifies the use of physical agent modalities as an area of advanced practice that requires post professional education and training in anatomy and physiology of muscle, sensory, vascular, and connective tissue in response to the application of physical agent modalities; principles of chemistry and physics related to the selected modality; physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of a modality; guidelines for the preparation of the patient, including education about the process and possible outcomes of treatment; safety rules and precautions related to the selected modality; methods for documenting immediate and long-term effects of treatment; and characteristics of the equipment, including safe operation, adjustment, indications of malfunctions, and care. Existing law also provides that an occupational therapist completing the education and training requirements could use physical agent modalities under the supervision of an occupational therapist who had already completed the education and training requirements, a physical therapist, or a physician/surgeon.

This proposed regulation would require an occupational therapist using physical agent modalities to complete 30 contact hours of coursework and 240 hours of supervised training in the use of physical agent modalities and specify that an occupational therapist could only use the physical agent modalities he or she was competent to use.

Section 4153: Existing law identifies swallowing assessment, evaluation, or intervention as an area of advanced practice. This proposed regulation would identify the role of an occupational therapist in providing this service; require an occupational therapist practicing in this area to complete 45 contact hours of coursework and 240 hours of supervised training in anatomy, physiology and neurophysiology of the head and neck with focus on the structure and function of the aerodynamic tract, the effect of pathology on the structures and functions of the aerodigestive tract including medical interventions and nutritional intake methods used with patients with swallowing problems, and interventions used to improve pharyngeal swallowing function; and specify that an occupational therapist could only provide those swallowing assessment, evaluation or intervention services he or she was competent to perform.

Section 4154: This proposed regulation would identify the sources from which post professional education and training in advanced practice areas could be obtained; set forth the requirements for becoming an approved provider; require training to be supervised and identify the type of supervision needed; and provide that on or after January 1, 2004 or the date on which these regulations take effect, the post professional education and training must be completed within the five years immediately preceding application for certification.

Section 4155: Existing law requires an occupational therapist providing advanced practice services to demonstrate to the California Board of Occupational Therapy (Board) that he or she is competent to do so. This proposed regulation would establish advanced practice certifications, require an occupational therapist seeking such certification(s) to submit a written portfolio containing proof of the post professional education and training completed, and identify the type of documentation to be included in the portfolio.

This proposed regulation would also contain the provision that an occupational therapist performing advanced practice services on or before December 31, 2003 could apply for advanced practice certification by submitting to the Board a portfolio documenting completion of education and training substantially equivalent to the requirements of law. An occupational therapist applying for certification under this proposed regulation would be required to submit his or her portfolio within six months of the effective date of this regulation. This proposed regulation would also specify that, on or before December 31, 2003, an occupational therapist certified by the Hand Therapy Certification Commission would qualify for advanced practice certification in hand therapy and the use of physical agent modalities.

FACTUAL BASIS/RATIONALE

On January 1, 2001, Senate Bill 1046 (SB 1046) (Murray, Chapter 697, Statutes of 2000) took effect, establishing the Board to regulate occupational therapy for the first time in California. SB 1046 was sponsored by the Occupational Therapy Association of California (OTAC). During testimony on what the licensing requirements should be, OTAC discovered that curriculum in entry level college and university degree programs varied greatly between programs and most contained little, if any, instruction or training in hand therapy, the use of physical agent modalities and swallowing assessment, evaluation and intervention, areas of practice commonly engaged in by occupational therapists. Since entry-level competency is crucial to public safety, SB 1046 required practitioners wishing to offer these services to complete additional education and training and charged the Board with developing regulations to identify the education and training needed to demonstrate competency in these areas.

SB 1402 (Murray, Chapter 823, Statutes of 2002) took effect January 1, 2003, identifying hand therapy, the use of physical agent modalities and swallowing assessment, evaluation and intervention as areas of “advanced practice” and specifying the subject matter to be included as part of the required education and training. It also established that the education and training requirements would take effect January 1, 2004 or the date on which these proposed regulations take effect, whichever is first.

The Board established a regulatory committee to begin working on advanced practice regulations in October 2001. A task force for each advanced practice area was appointed and several meetings were held throughout the state in 2002 and 2003 to gather input from experts regarding the nature and amount of education and training that would be required for a practitioner to be minimally competent to offer advanced practice

services. Studies from the American Occupational Therapy Association, the Accreditation Council for Occupational Therapy Education, the American Speech-Language Hearing Association, and the Hand Therapy Certification Commission were used as references in determining standards used by other states and professions.

There was general consensus amongst the experts that coursework in each advanced practice area should be at the college or university level and that the education required by law could be completed in a two (2) to three (3) unit semester course. However, the Board discovered that very few colleges and universities offered separate courses in the subject areas listed in law, and those that did, limited attendance to students enrolled in the particular degree program. Representatives from the California Physical Therapy Association advised that the Western Association of Schools and Colleges had developed a formula for awarding college credits for Prior Learning Assessment and Adult Development. This system grants credit for life experiences and certificated coursework through a portfolio assessment process. With that option available, the Board determined that the educational requirements for advanced practice could be met through attendance at college/university classes or through continuing education documented through the portfolio assessment process. The proposed regulations describe the requirements for becoming a Board approved provider and the type of documentation that must be included in the portfolio of an applicant seeking advanced practice certification.

Hand Therapy

When SB 1046 took effect, there was much confusion as to what “hand therapy” involved. Occupational therapy encompasses the entire mind and body as therapists work with clients to help them achieve independence in activities of daily living. Occupational therapy almost always involves use of the hand, which is part of the curriculum of entry level programs. Therefore, for clarity purposes, the proposed regulations specify that “hand therapy” is performed when the client has had surgery or suffered an injury to the hand, wrist or forearm, a form of therapy not typically taught in entry level college/university programs. The proposed regulation requires the equivalent of a three-unit semester course covering the subjects named in law.

Experts testified that the amount of experience or training needed to become minimally competent in hand therapy averaged three (3) months. The proposed regulation requires 480 hours of supervised training, which is the equivalent of three months.

Hand therapy quite often involves the use of physical agent modalities such as heat, ice, or electrical stimulation. The proposed regulation requires an occupational therapist using physical agent modalities in conjunction with hand therapy to meet the education and training requirements for their use.

Physical Agent Modalities

Based on data obtained from other states that regulate the use of physical agent modalities and testimony from experts, the proposed regulation requires the equivalent of a two-unit semester course in the use of physical agent modalities and 240 hours of supervised experience.

Swallowing Assessment, Evaluation or Intervention

Neither SB 1046 nor SB 1402 listed the education and training requirements for occupational therapists wishing to offer services to clients with swallowing disorders. Therefore, the Board relied on information from the American Speech-Language Hearing Association and members of that profession to determine the subject matter needed to demonstrate minimal competence in this area.

Experts advised the Board that the role of the occupational therapist in this advanced practice area is to observe instrumental evaluations and use the information to assess, evaluate and determine appropriate interventions with clients suffering from swallowing disorders. Consensus amongst practitioners was that a three-unit semester course and 240 hours of supervised experience would be needed to be minimally competent to practice.

The Board recognizes that there are new technologies and advances in health care, including these advanced practice areas. For this reason, the proposed regulations clearly state that an occupational therapist can perform only the advanced practice services he or she is competent to perform.

The Board also recognizes that there are occupational therapists who have been offering advanced practice services for many years before licensing took effect. Prior to 2002, the Hand Therapy Certification Commission (HTCC) required 2,000 hours of experience and an examination for occupational therapists and physical therapists desirous of becoming certified by the HTCC. In 2003, the experience requirements were increased to 4,000 hours before a therapist could sit for the examination. Therefore, the proposed regulations provide that an occupational therapist certified by the HTCC prior to December 31, 2003, would be qualified for certification in hand therapy and the use of physical agent modalities. The proposed regulations also provide occupational therapists the opportunity to demonstrate that they have completed substantially equivalent education and training, through the portfolio process, prior to December 31, 2003.

UNDERLYING DATA

American Society of Hand Therapists' *"A Role Delineation Study of Hand Therapy"*
American Speech-Language Hearing Association's *"Knowledge and Skills Needed by Speech-Language Pathologists Performing Videofluoroscopic Swallowing Examinations"* and *"Guideline for Speech-Language Pathologists Performing Videofluoroscopic Swallowing Examinations"*

Hand Therapy Certification Commission's *"Candidates Handbook and Recertification Hand Book"*

Prior Learning Assessment and Adult Development (PLAAD)

Reference Manual of the Official Documents of the American Occupational Therapy Association, Inc.

BUSINESS IMPACT

These regulations will not have a significant adverse economic interest on businesses.

REQUIREMENTS FOR SPECIFIC TECHNOLOGIES OR EQUIPMENT

These regulations do not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

The California Board of Occupational Therapy must adopt regulations setting forth the post professional education and training requirements for therapists wishing to offer advanced practice services. In numerous discussions with interested parties and experts in the profession, no reasonable alternatives that were considered or that have otherwise been identified and brought to the attention of the board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome on affected private persons than the proposed regulations.